

**Executive Summary – Enforcement Matter – Case No. 43568**  
**MOUNTAIN BREEZE, L.L.C.**  
**RN101202505**  
**Docket No. 2012-0368-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Mountain Breeze Campground, 9250 River Road, New Braunfels, Comal County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 11, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$2,138

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$2,138

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 43568  
MOUNTAIN BREEZE, L.L.C.  
RN101202505  
Docket No. 2012-0368-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 9, 2012

**Date(s) of NOE(s):** January 17, 2012

***Violation Information***

Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting;
- b. Within 30 days, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility;
- c. Within 45 days, submit written certification demonstrating compliance with Ordering Provision b.; and
- d. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 43568**  
**MOUNTAIN BREEZE, L.L.C.**  
**RN101202505**  
**Docket No. 2012-0368-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division,  
Enforcement Team 2, MC 169, (512) 239-2576; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Paul Rich, President, MOUNTAIN BREEZE, L.L.C., 201 Mount Breeze  
CP, New Braunfels, Texas 78132

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES** Assigned **30-Jan-2012**  
PCW **10-Feb-2012** Screening **8-Feb-2012** EPA Due **31-Dec-2012**

## RESPONDENT/FACILITY INFORMATION

Respondent **MOUNTAIN BREEZE, L.L.C.**  
Reg. Ent. Ref. No. **RN101202505**  
Facility/Site Region **13-San Antonio** Major/Minor Source **Minor**

## CASE INFORMATION

Enf./Case ID No. **43568** No. of Violations **2**  
Docket No. **2012-0368-PWS-E** Order Type **Findings**  
Media Program(s) **Public Water Supply** Government/Non-Profit **No**  
Multi-Media  Enf. Coordinator **Bridgett Lee**  
EC's Team **Enforcement Team 2**  
Admin. Penalty \$ Limit Minimum **\$50** Maximum **\$1,000**

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$950**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **82.0%** Enhancement Subtotals 2, 3, & 7 **\$779**

Notes Enhancement for 11 NOVs with same/similar violations, one NOV with a dissimilar violation, and one final Agreed Order without denial of liability.

Culpability **No** **0.0%** Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$0**

Economic Benefit **0.0%** Enhancement\* Subtotal 6 **\$0**

Total EB Amounts **\$109**  
Approx. Cost of Compliance **\$200**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$1,729**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **6.1%** Adjustment **\$106**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement for recovery of avoided cost of compliance associated with violations nos. 1 and 2.

Final Penalty Amount **\$1,835**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$1,835**

**DEFERRAL** **0.0%** Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$1,835**

Screening Date 8-Feb-2012

Docket No. 2012-0368-PWS-E

PCW

Respondent MOUNTAIN BREEZE, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 43568

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 82%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for 11 NOVs with same/similar violations, one NOV with a dissimilar violation, and one final Agreed Order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 82%

Screening Date 8-Feb-2012

Docket No. 2012-0368-PWS-E

PCW

Respondent MOUNTAIN BREEZE, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 43568

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health &amp; Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of April, May, and July 2011 and failed to provide public notice of the failure to sample in April, May, and July 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Failure to collect routine coliform samples could expose the consumers of the water to a significant amount of undetected contaminants that would exceed levels protective of human health.

Adjustment \$750

\$250

## Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three monthly events are recommended, calculated for the months in which no routine samples were collected.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$1,449

This violation Final Assessed Penalty (adjusted for limits) \$1,449

# Economic Benefit Worksheet

**Respondent** MOUNTAIN BREEZE, L.L.C.

**Case ID No.** 43568

**Reg. Ent. Reference No.** RN101202505

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	9-Jan-2012	31-Aug-2012	0.64	\$3	n/a	\$3

### Notes for DELAYED costs

The delayed cost included the estimated amount necessary to develop and implement procedures to ensure all necessary public notifications are provided in a timely manner to the consumers at the water Facility, calculated from the date of the record review to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	30-Apr-2011	31-Jul-2011	1.17	\$4	\$75	\$79
Other (as needed)	\$15	1-May-2011	31-Oct-2011	1.42	\$1	\$15	\$16

### Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 3 samples + \$5 x 3 public notices) to conduct routine coliform sampling and provide public notification fo the failure to sample, calculated for the months sampling was not conducted and the period public notice was required.

Approx. Cost of Compliance

\$190

**TOTAL**

\$99



Screening Date 8-Feb-2012

Docket No. 2012-0368-PWS-E

PCW

Respondent MOUNTAIN BREEZE, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 43568

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.122(c)(2)(B)

Violation Description Failed to provide public notice of the failure to collect routine distribution water samples for the months of August and September 2010.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended (one event per notice).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$386

This violation Final Assessed Penalty (adjusted for limits) \$386

# Economic Benefit Worksheet

**Respondent** MOUNTAIN BREEZE, L.L.C.

**Case ID No.** 43568

**Reg. Ent. Reference No.** RN101202505

**Media** Public Water Supply

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The avoided cost is captured in the Economic Benefit for violation no. 1.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$10	1-Sep-2010	31-Dec-2010	1.25	\$1	\$10	\$11

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount necessary (\$5 x 2 public notices) to provide public notification of the failure to sample calculated for the months public notice was required.

**Approx. Cost of Compliance**

\$10

**TOTAL**

\$11



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	30-Jan-2012	<b>PCW</b>	10-Feb-2012	<b>Screening</b>	8-Feb-2012	<b>EPA Due</b>	31-Dec-2012
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	MOUNTAIN BREEZE, L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN101202505
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	43568
<b>Docket No.</b>	2012-0368-PWS-E
<b>Media Program(s)</b>	Public Water Supply
<b>Multi-Media</b>	
<b>No. of Violations</b>	1
<b>Order Type</b>	Findings
<b>Government/Non-Profit</b>	No
<b>Enf. Coordinator</b>	Bridgett Lee
<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50
<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$150
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	82.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$123
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**Notes** Enhancement for 11 NOVs with same/similar violations, one NOV with a dissimilar violation, and one final Agreed Order without denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$30  
Approx. Cost of Compliance \$30

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$273
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	11.0%	<b>Adjustment</b>	\$30
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement for recovery of avoided cost of compliance associated with the violation.

<b>Final Penalty Amount</b>	\$303
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$303
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$303
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Screening Date 8-Feb-2012

Docket No. 2012-0368-PWS-E

PCW

Respondent MOUNTAIN BREEZE, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 43568

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	11	55%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 82%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for 11 NOVs with same/similar violations, one NOV with a dissimilar violation, and one final Agreed Order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 82%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 82%

Screening Date 8-Feb-2012

Docket No. 2012-0368-PWS-E

PCW

Respondent MOUNTAIN BREEZE, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 43568

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health &amp; Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the month of September 2011 and failed to provide notice of the failure to sample in September 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect a routine coliform sample could expose the consumers of the water to a significant amount of undetected contaminants that would exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$150

One monthly event is recommended, calculated for the month in which no routine samples were collected.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$303

This violation Final Assessed Penalty (adjusted for limits) \$303

## Economic Benefit Worksheet

**Respondent** MOUNTAIN BREEZE, L.L.C.  
**Case ID No.** 43568  
**Reg. Ent. Reference No.** RN101202505  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in PCW policy revision no. 2 violation no. 1.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Sep-2011	30-Sep-2011	0.00	\$0	\$25	\$25
Other (as needed)	\$5	1-Oct-2011	31-Dec-2011	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 1 sample + 5 x 1 public notice) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months sampling was not conducted and the period public notice was required.

Approx. Cost of Compliance

\$30

**TOTAL**

\$30

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602847386 Mountain Breeze, L.L.C. Classification: Rating:  
Regulated Entity: RN101202505 MOUNTAIN BREEZE CAMPGROUND Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0460190  
Location: 9250 RIVER ROAD NEW BRAUNFELS, COMAL COUNTY, TX  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: February 08, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 08, 2007 to February 08, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Bridgett Lee Phone: (512) 239 - 2565

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 02/18/2008 ADMINORDER 2005-1466-PWS-E
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THC Chapter 341, SubChapter A 341.033(d)
- Description: Failure to collect routine water samples and additional routine samples for bacteriological analysis and failed to post notification for failure to collect routine water samples.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
5A THC Chapter 341, SubChapter A 341.015(c)
- Description: Exceeded a maximum contaminant level (mcl) violation in 08/2003.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
- Description: Failure to collect and submit repeat samples for and additional routine samples for bacteriological analysis following coliform-positive sample results and failed to provide public notification for the coliform monitoring violation.
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A



D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/26/2007 (540571)  
2 02/18/2011 (893439)  
3 02/24/2011 (899732)  
4 02/24/2011 (899740)  
5 02/24/2011 (899821)  
6 02/24/2011 (899830)  
7 03/29/2011 (900579)  
8 01/06/2012 (977073)  
9 01/13/2012 (977245)  
10 01/13/2012 (977395)  
11 01/13/2012 (977426)  
12 01/13/2012 (980286)  
13 01/27/2012 (981044)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/21/2007 (540571) CN602847386  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: Failure to protect the well unit with an intruder-resistant fence or a locked, ventilated well house to exclude possible contamination or damage to the facilities by trespassers.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(ii)  
Description: Failure to posses a DPD test kit.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)  
Description: Failure to maintain records of weekly chemical use.  
Date: 06/27/2008 (893439) CN602847386  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).  
Date: 09/03/2008 (899732) CN602847386  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).  
Date: 11/19/2008 (899740) CN602847386  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).  
Date: 09/29/2010 (899821) CN602847386  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).



Date: 10/26/2010 (899830) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (977073) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Date: 07/07/2011 (977395) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect any routine monitoring sample(s).

Date: 09/09/2011 (977426) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 07/2011 - Failure to collect any routine monitoring sample(s).

Date: 10/05/2011 (977245) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: Apr 2011 TCR PN Routine Monitoring Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 04/2011.

Date: 10/05/2011 (977395) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: May 2011 TCR PN Routine Monitoring Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 05/2011.

Date: 11/17/2011 (980286) CN602847386  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

- F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas
- N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MOUNTAIN BREEZE, L.L.C.  
RN101202505**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0368-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MOUNTAIN BREEZE, L.L.C. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 9250 River Road in New Braunfels, Comal County, Texas (the "Facility") that has approximately 12 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 9, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of April, May, July and September 2011 and failed to provide public notice of the failure to sample for August and September 2010 and April, May, July, and September 2011.
3. The Respondent received notice of the violations on January 24, 2012.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand One Hundred Thirty-Eight Dollars (\$2,138) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand One Hundred Thirty-Eight Dollar (\$2,138) administrative penalty.

## **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand One Hundred Thirty-Eight Dollars (\$2,138) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MOUNTAIN BREEZE, L.L.C., Docket No. 2012-0368-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting;
- b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.; and
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

MOUNTAIN BREEZE, L.L.C.  
DOCKET NO. 2012-0368-PWS-E  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/31/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of MOUNTAIN BREEZE, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of MOUNTAIN BREEZE, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, MOUNTAIN BREEZE, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

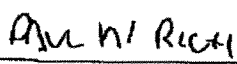
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

6/14/13  
Date

  
Name (Printed or typed)  
Authorized Representative of  
MOUNTAIN BREEZE, L.L.C.

pres  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.